

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DANIEL BRYAN KELLEY,

Plaintiff,

v.

RICKY OWENS, et al.,

Defendants.

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Case Number 2:05-cv-1150-MHT

**DEFENDANTS' QUESTIONS TO BE PROPOUNDED
TO PROSPECTIVE JURORS ON VOIR DIRE EXAMINATION**

COME NOW Ricky Owens, Terry Wilson, Wendy Roberson and Al Bradley, the Defendants in the above-styled cause, and respectfully request this Court to propound the following questions to prospective jurors on voir dire examination. Defendants further request the Court to allow additional follow-up questions to be asked by the Court or counsel, as may appear relevant based upon the responses given by the prospective jurors to these proposed questions.

1. Is any juror familiar with the facts of this case? How did you become familiar?
2. Have any of you formed an opinion about this case as the result of any information you have seen or heard about this case?
3. Does any member of the jury panel know of any reason why you may be prejudiced for or against the Plaintiff – or – for or against the Defendants because of the nature of this particular case or otherwise?
4. Is there any one of you who could not be fair to both sides in this case because this case involves law enforcement officials or jailers?

5. Ask the Plaintiff, Daniel “Bryan” Kelley, to stand and face the jury. Are any of you related by blood or marriage to the Plaintiff, Bryan Kelley? Are you friends of his or do you know him? Please be seated, Mr. Kelley.

6. Ask the Defendants to stand and face the jury. Are any of you related by blood or marriage to the Defendants, Ricky Owens, Terry Wilson, Wendy Roberson or Al Bradley? Are you friends of theirs or do you know any of them? Please be seated.

7. The Defendant in this case, Ricky Owens, is represented by Gary Willford of the Webb & Eley firm of Montgomery, Alabama (Seated on your _____, have him stand). Do you know anyone who works for the law firm of Webb & Eley, including Gary Willford? If so, how do you know them? Would your acquaintance with them influence you in any way?

8. The Defendants in this case, Terry Wilson, Wendy Roberson and Al Bradley, are represented by Kristi A. McDonald of the McDonald & McDonald firm of Birmingham, Alabama (Seated on your _____, have her stand). Do you know her or her husband, Kerry R. McDonald whom she practices with? If so, how do you know them? Would your acquaintance with them influence you in any way?

9. The Plaintiff in the case, Daniel “Bryan” Kelley, is represented by Richard Stockham of the Stockham, Carroll, and Smith firm of Birmingham, Alabama (Seated on your _____, have him stand). Do you know anyone who works for the law firm of Stockham, Carroll and Smith, including Richard Stockham? If so, how do you know them? Would your acquaintance with them influence you in any way?

10. Have any of you, or any members of your immediate family, ever been employed by Coosa County or the Coosa County Sheriff’s Department?

11. Have any of you, or any members of your immediate family, ever been employed by any law enforcement agency, federal, state, or local, including any federal, state, or local

detention center, jail, prison, or other penal or correctional institution or facility? If so, please indicate the nature of the employment.

12. Have any of you or a close family member worked for a governmental entity, whether municipal, county, state, or federal government?

13. Have any of you run for political or public office of any kind? If so, what office did you run for and were you elected?

14. Have any of you served in a public office?

15. Have any of you, or members of your immediate family, ever been arrested or been a defendant in a criminal proceeding other than a minor traffic violation? If so, please describe the proceedings. Do you have a problem with how the police officers conducted the arrest?

16. Have you or any members of your immediate family ever been charged with a crime or given a traffic citation which you felt was unjustified?

17. Have you or any member of your immediate family ever had a physical altercation with a law enforcement officer?

18. Have you or any member of your immediate family been incarcerated or detained at a detention center, jail, prison, or other penal or correctional institution or facility for any period of time?

19. Have you, any member of your family or close friends ever been a victim of a crime? If so, please explain this experience.

20. Do you, for any reason, believe that local government officials such as state or county officials or employees or law enforcement officials are, in general, corrupt, prejudiced toward any group of individuals, or deal unfairly with the public? If so, please explain your beliefs.

21. Do you have *any* reason for not trusting or not liking state, county or other local government officials, including law enforcement officials? If so, please state your reason.

22. Do you generally think of local government officials, including law enforcement officials, as friendly and helpful?

23. Have you ever been dissatisfied with the service provided by any law enforcement agency?

24. Have you, any member of your family or close friends ever had what you would term to be a bad experience or a disagreement with a law enforcement officer? If so, please describe this experience.

25. Have you, or any member of your family, ever accused or filed a complaint against a policeman, a state trooper, jailer, deputy sheriff, sheriff, jail, prison or other law enforcement officer for improper conduct? If so, what was the nature of the complaint against that person?

26. Do you have any reason for believing that the testimony of a private citizen should be believed over, or carry a greater weight than that of a law enforcement officer? If so, please explain why.

27. Have you, any member of your family or close friends ever used illegal drugs such as marijuana, cocaine, or crack cocaine?

28. Have you, any member of your family or close friends ever battled an addiction to alcohol or drugs? If so, did that addiction lead to any health problems or legal problems?

29. Have you, any member of your family or close friends ever suffered from a mental illness, such as bi-polar disorder or schizophrenia?

30. Are you or is anyone in your immediate family a member of an organization that is involved in repealing or reforming laws against the use of drugs such as marijuana or cocaine?

31. Are you opposed to laws, or the enforcement of laws, that criminalize the use of drugs such as marijuana or cocaine?

32. Do you or anyone in your immediate family own a firearm? If yes, for what?

33. Have you or any member of your family ever been a member of or provided financial assistance to a group that seeks to reform prisons or jails, any prisoners' rights organization, or civil rights or civil liberties organization including the American Civil Liberties Union (ACLU), Southern Poverty Law Center, the Southern Prisoner's Defense Committee, the Southern Center for Human Rights or any other similar group or organization?

34. What groups or organizations do you belong to now or have you belonged to in the past?

35. Plaintiff may call as witnesses: Plaintiff Daniel "Bryan" Kelley, the Plaintiff's mother, Wanda Kelley, and the Plaintiff's father, Raymond Kelley. Do you know any of those people or any member of their families?

36. Do any of you know the Plaintiff's ex-wife, Marsha Renee Kelley?

37. The Defendants may call as witnesses: Kay Taylor, Aaron Green, Dr. John James, Dr. Vincent Law, Dr. David Currie, Dr. Randall Weaver, Dana Harris, Brett Oakes, Tim Lipscomb, Dwayne Harris, Jerry Kelly, and William Latham. Do you know any of those people or any member of their families?

38. The evidence will show that the Plaintiff was taking the following drugs while he was incarcerated at the Coosa County Jail:

- A. Conazepam;
- B. Neurontin;
- C. Zyprexa;
- D. Phenobarbital; or

E. Seroquel.

Have you, any member of your family, or close friends ever taken any of these drugs?

39. Is there any one of you that believes that a law enforcement official, such as a sheriff or jailer, should question the type of medication or dosage of medication a doctor prescribes for an inmate?

40. Is there any one of you that believes that a law enforcement official, such as a sheriff or jailer, should question a doctor about how different medications that the doctor prescribes for an inmate may interact with other medications that the doctor has prescribed for that inmate?

41. Is there any one of you that believes it is wrong for an inmate who says he is having seizures to be placed in an observation cell where he can be monitored twenty-four (24) hours a day by a camera and jail staff?

42. Is there any one of you that believes that there is anything wrong with taking an inmate to a local doctor or dentist for medical care rather than transporting that inmate to his personal physician for medical care?

43. The Plaintiff has been seen or treated by the following physicians who are expected to testify by deposition testimony: Dr. John James, Dr. Vincent Law and Dr. David Currie. Have any of you or any member of your family ever been seen or treated by any of these physicians? Have any of you or any member of your family ever worked for any of these physicians?

44. Have any of you ever been employed by:

- A. Russell Medical Center;
- B. Crew Drugs;
- C. Food World Pharmacy in Sylacauga;

- D. Cheaha Mental Health;
- E. Brookwood Medical Center;
- F. Hill Crest Behavioral Health Services;
- G. Dr. Ray Faber;
- H. Dr. Derek Holcombe;
- I. Dr. Ray Thweatt;
- J. Dr. Ammar Aldaher;
- K. Dr. Howard Strickler;
- L. Montclair Hospital;
- M. Dr. Jean Oakes;
- N. Hill Hospital of Sumter County;
- O. Coosa Valley Medical Center;
- P. Carraway Medical Center;
- Q. Dr. Randall Weaver.

45. Have any of you reached any preliminary opinions about this case simply because the Plaintiff has sued these Defendants?

46. Are you willing to keep a completely open mind and not make any decisions about the case until all of the evidence has been presented by both sides and the lawyers have had a chance to argue the case and the Court has instructed you on the law before you retire to reach a decision and render a verdict?

47. Since the Plaintiff gets to present his entire case before the Defendants are allowed to call a single witness, can you wait until both sides have a chance to present their case before you begin deciding the outcome?

48. In order to find for the Plaintiff in this case, the burden of proof is on the Plaintiff to prove that the Defendants violated his rights to be free from the use of excessive force. If the evidence in this case shows that Plaintiff was not subjected to excessive force, can you return a verdict for Defendants?

49. When the time comes for you to render a verdict in this case, will you have any problems following the Judge's instructions and the law that the Judge provides to you and apply it fairly to the facts that you have heard in this case, even if your emotions suggest otherwise?

50. If the Judge tells you that you should find for the Plaintiff only if certain things are proven, and those circumstances are not proven in your opinion, would you be inclined to rule for the Plaintiff anyway because you felt sorry for him?

51. Are you able to render a fair and impartial verdict based solely upon the evidence and not based on any sympathy you may have for the Plaintiff?

52. Do you think a person must be responsible for his or her own actions even if the consequences resulting from the actions are not what the person may want or think they deserve?

53. Have you ever had any training in law enforcement? If so, please state when the training occurred, where it occurred, the type of training, the length of training, and the subject.

54. If you believe that Ricky Owens, Terry Wilson, Wendy Roberson, or Al Bradley should not be held liable for the claims of the Plaintiff, would you be able to maintain this belief even if other jurors felt differently?

55. Is there any reason you cannot impartially serve and decide the issues presented in this case?

56. Is there anyone here who simply does not want to serve as a juror for any reason?

57. Do you know any other potential juror in the courtroom? If so, what is your relationship?

58. Have you or a family member ever been a plaintiff or defendant in a lawsuit?
- A. What were the circumstances of the case?
 - B. What was the outcome?
59. Have you or a family member ever been a witness in a lawsuit?
- A. Was it a civil case or a criminal case?
 - B. Which side subpoenaed you to testify?
60. Have you or a family member ever served on a jury?
- A. What was the case about?
 - B. What was the verdict?
 - C. Was monetary compensation a part of the verdict?
 - D. If monetary compensation was a part of the verdict, what was the amount?
 - E. Did you serve as the foreperson of the jury?
61. Have any one of you ever been called to serve on a Grand Jury? If so, were you chosen to serve? If so, did you bring back any indictments? Did you serve as the foreperson?
62. Have you or a family member ever received an out-of-court settlement in a legal case? If so, please explain the circumstances and type of settlement you received?
63. Have you or a family member ever contacted an attorney for the purposes of bringing a lawsuit and/or legal action? If so, please explain the circumstances and the outcome of such consultation.
64. Would any of you be the least bit hesitant to promptly report to me or the courtroom deputy should someone approach you about this case or talk to you about it while you are serving as a juror?
65. Is there anything else about your experiences or feelings that has not been raised today that would affect your ability to act as a fair juror in this case?

66. If you would have answered “yes” to any of these questions but were embarrassed to do so in front of the entire courtroom, would you indicate that to the Court now by raising your hand and the Court will allow you to approach the bench to discuss this potentially sensitive information privately.

Respectfully submitted this the 23rd day of January, 2008.

s/Gary L. Willford, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **Richard Stockham, Esq.**

s/Gary L. Willford, Jr.
OF COUNSEL